



।आयकर अपीलीय अधिकरण "एस एम सी" न्यायपीठ पुणेमें।  
IN THE INCOME TAX APPELLATE TRIBUNAL  
PUNE BENCHES "SMC" :: PUNE

BEFORE DR.DIPAK P. RIPOTE, ACCOUNTANT  
MEMBER AND  
SHRI VINAY BHAMORE, JUDICIAL MEMBER

आयकर अपील सं. / ITA No.1447/PUN/2024

निर्धारण वर्ष / Assessment Year: 2011-12

Late Sakharam Gokulchand Sarda(through Legal Heir Nikhil S. Sarda), Plot No.15, Nidhish, Bhokardan Naka Road, Jalna – 431203. PAN: ATMPS5360E	V s	The Income Tax Officer, Ward-1, Jalna.
Appellant/ Assessee		Respondent / Revenue

Assessee by	Shri Prateek Jha & Shri Prayag Jha – AR(s)(Virtual Hearing)
Revenue by	Shri Manoj Tripathi - DR
Date of hearing	25/11/2024
Date of pronouncement	26/11/2024

**आदेश/ ORDER**

**PER DR. DIPAK P. RIPOTE, AM:**

This is an appeal filed by the assessee against the order of  
ld.Commissioner of Income Tax(Appeals)[NFAC] for A.Y.2011-  
12 dated 02.08.2022 passed u/sec.250 of the Income tax Act, 1961.

The Assessee has raised the following grounds of appeal :

*“1. On the facts and circumstance prevailing in the case and in  
law, the honourable Commissioner of income Tax Appeal, NFAC,*



*Delhi, has erred in not considering the submission made by the appellant dated 16.12.2019, and thus there is violation of principle of natural justices.*

*2. The Honourable CIT (A) has erred in confirming the additions made by the Id AO, by dismissing the appeal on the ground that in spite of several notices, the reply has not given by the appellant. Since the appellant has expired on 09.04.2021, and the notices has been issued after the death i.e. 09.04.2021, therefore, the said notices could not be complied. It is requested to honourable ITAT Pune, to kindly consider the submission made by the late appellant on 16.12.2019.*

*3. In view of the facts that, the assessee has been expired on 09.04.2021, and the legal heir Shri Nikhil Sarada, son of the deceased was under medical treatment of mental stress, could not comply the notices. It is requested that, since the sources of deposits made in the bank account have been proved as per the cash books presented in the submission dated 16.12.2019, supported with evidences of the sources of bank deposits, the addition made u/s 69A of the IT act may kindly be deleted.”*

**Submission of Id.AR :**

2. Ld.AR for the Assessee submitted that assessee has expired on 09.04.2021 due to Covid-19 Pandemic. Ld.AR submitted copy of the Death Certificate. Ld.AR submitted that Id.CIT(A) has passed the order in the name of deceased assessee, which is bad-in-law. Ld.AR also submitted that Id.CIT(A) has dismissed the appeal of the assessee only on one issue that assessee could not file any details. Ld.AR submitted that order of the Id.CIT(A) may kindly be set-aside.



**Submission of ld.DR :**

3. Ld.Departmental Representative(ld.DR) for the Revenue relied on the order of the Assessing Officer and ld.CIT(A).

**Findings & Analysis :**

4. We have heard both the parties and perused the records. There is a delay in filing appeal before this Tribunal. We have perused the Affidavit filed by the Legal Heir of the Assessee. We are convinced that there is a sufficient cause for delay. Accordingly, Delay is condoned.

5. It is observed that ld.CIT(A) vide his order dated 02.08.2022 dismissed the appeal of the assessee without deciding the grounds of appeal raised by the assessed on merits. Ld.CIT(A) dismissed the appeal only on one ground i.e.assessee could not file any details. Ld.CIT(A) has passed the order in the name of the deceased assessee. Ld.CIT(A) has not brought on record the Legal Heir of the Assessee. However, it is also observed that ld.CIT(A) has passed the order in the name of Sakharam Gokulchand Sarada on 02.08.2022, whereas Assessee has died on 09.04.2021. Thus, ld.CIT(A) has passed an order in name of Deceased Individual.



Therefore, the said order is bad in law, hence, order of Id.CIT(A) set-aside to Id.CIT(A) for denovo adjudication. The Id.CIT(A) shall provide opportunity of hearing to the Legal Heir of Assessee. Accordingly, grounds of appeal raised by the assessee are allowed for statistical purpose.

6. In the result, appeal of the assessee is allowed for statistical purpose.

Order pronounced in the open Court on 26<sup>th</sup> November, 2024.

**Sd/-**  
**(VINAY BHAMORE)**  
**JUDICIAL MEMBER**

**Sd/-**  
**(DR. DIPAK P. RIPOTE)**  
**ACCOUNTANT MEMBER**

पुणे / Pune; दिनांक / Dated : 26<sup>th</sup> Nov, 2024/ SGR\*

**आदेशकीप्रतिलिपिअग्रेषित / Copy of the Order forwarded to :**

1. अपीलार्थी / The Appellant.
2. प्रत्यर्थी / The Respondent.
3. The CIT(A), concerned.
4. The Pr. CIT, concerned.
5. विभागीयप्रतिनिधि, आयकर अपीलीय अधिकरण, "एस एम सी" बेंच, पुणे / DR, ITAT, "SMC" Bench, Pune.
6. गार्डफ़ाइल / Guard File.

आदेशानुसार / BY ORDER,

// TRUE COPY //

Senior Private Secretary  
आयकर अपीलीय अधिकरण, पुणे/ITAT, Pune.